

The following list contains the entire submission submitted December 12, 2022 03:15:03pm ET, and is formatted for ease of viewing and printing.

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Request

Request ID 513681

Confirmation ID 513141

Request description

Please provide us, within twenty working days, copies of — All transition-related letters, plans and memos directed to any individual who served, during the covered period of time, as acting or actual Administrator, Assistant Administrator for Air and Radiation, and/or head of the Office of General Counsel — from a member of the Biden administration transition team and/or the Biden campaign, however ultimately delivered to any such agency official, and received at any time from Nov. 4, 2020 through February 1, 2021, inclusive; and — All other electronic correspondence received by the same leadership (see above) at any time from Nov. 4, 2020 through February 1, 2021, inclusive, from any email address originating from or including anywhere in it any email address ending in @jrbpt.org, any email address ending in @law.harvard.edu, and/or the address joe.goffman@gmail.com.

Supporting documentation

Additional Information	12.12.22 USEPA Transition Plan FOIA Request.pdf
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Fees

Request category ID media

Fee waiver yes

Explanation

The key to “media” fee waiver is whether a group publishes, as IER most surely does. See supra. In *National Security Archive v. Department of Defense*, 880 F.2d 1381 (D.C. Cir. 1989), the D.C. Circuit wrote: The relevant legislative history is simple to state: because one of the purposes of FIRA is to encourage the dissemination of information in Government files, as Senator Leahy (a sponsor) said: “It is critical that the phrase ‘representative of the news media’ be broadly interpreted if the act is to work as expected.... If fact, any person or organization which regularly publishes or disseminates information to the public ... should qualify for waivers as a ‘representative of the news media.’” Id. at 1385-86 (emphasis in original). As the court in *Electronic Privacy Information Center v. Department of Defense*, 241 F. Supp. 2d 5 (D.D.C. 2003) noted, this test is met not only by outlets in the business of publishing such as newspapers; instead, citing to the National Security Archives court, it noted one key fact is determinative, the “plan to act, in essence, as a publisher, both in print and other media.” *EPIC v. DOD*, 241 F.Supp.2d at 10 (emphases added). “In short, the court of appeals in *National Security Archive* held that ‘[a] representative of the news media is, in essence, a person or entity that gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw material into a distinct work, and distributes that work to an audience.’” Id. at 11. See also, *Media Access Project v. FCC*, 883 F.2d 1063, 1065 (D.C. Cir. 1989). For these reasons, requester qualifies as a “representative[] of the news media” under the statutory definition, because it routinely gathers information of interest to the public, uses editorial skills to turn it into distinct work, and distributes that work to the public. See *EPIC v. Dep’t of Defense*, 241 F. Supp. 2d 5 (D.D.C. 2003)(non-profit organization that gathered information and published it in newsletters and otherwise for general distribution qualified as representative of news media for purpose of limiting fees). Courts have reaffirmed that non-profit requesters who are not traditional news media outlets can qualify as representatives of the new media for purposes of the FOIA, particularly after the 2007 amendments to FOIA. See *ACLU of Washington v. U.S. Dep’t of Justice*, No. C09-0642RSL, 2011, 2011 U.S. Dist. LEXIS 26047 at *32 (W.D. Wash. Mar. 10, 2011). See also *Serv. Women’s Action Network v. DOD*, 2012 U.S. Dist. Lexis 45292 (D. Conn., Mar. 30, 2012).

Willing to pay \$200

Expedited processing

Expedited Processing

no